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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,936	12/08/2005	Mache Ranginui Austin	CULLP0188US	8414
23908 7590 10/27/2010 RENNER OTTO BOISSELLE & SKLAR, LLP 1621 EUCLID AVENUE NINETEENTH FLOOR CLEVELAND, OH 44115				
EXAMINER				
PATEL, TAJASH D				
ART UNIT		PAPER NUMBER		
3765				
MAIL DATE		DELIVERY MODE		
10/27/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/522,936

**Applicant(s)**

AUSTIN ET AL.

**Examiner**

Tejash Patel

**Art Unit**

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 18 August 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6, 9, 10 and 13 is/are rejected.
- 7) ☒ Claim(s) 4, 5, 7, 8, 11 and 12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 3, 6 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Chouinard (US 5,639,005). Chouinard discloses a vest including at least one rear unitary portion/panel (200) being separate from but attachable to left and right front lateral portions of at least one front portion/panel (100) by a first complementary releasable attachment (103, 105, 123, 125) about a shoulder portion and a waist portion when secured to a second complementary releasable attachment (203, 205) on the rear portion, col. 2, lines 57-67 and as shown in figures 1 and 2. A belt is releasably attached to a lower portion of the vest for additional support of the rear portion as shown in figures 2. Also, a pocket includes an opening with at least one attachment device for the releasable attachment of equipment located on at least one of the portions as shown in figure 1. In addition, the left and right portions has sided portions that are attachable to close the front of the vest by zipper as shown in figure 1.

With regard to claim 2, the vest of Chouinard is capable of being used for mining or other end use thereof.

3. Claims 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chouinard as applied to claim 6 above in view of Puco et al. (US 5,909,802). Steele when viewed with Doherty discloses the invention as set forth above except for showing a harness associated with the vest and having a water storage.

Puco et al. (hereinafter Puco) discloses a vest (10) including a harness (48) associated with a lumbar support belt (50) that includes an attachment buckle means and has a water storage (100) as shown in figure 1.

It would have been obvious to one skilled in the art at the time the invention was made to provide the vest of Chouinard with a harness as taught by Puco so that weight carried by the vest is uniformly distributed or depending on the end use thereof. Also, it is obvious that the vest of Chouinard when viewed with Puco can have a water storage so that the user has access to water when needed.

***Response to Amendment***

4. The reply filed on August 18, 2010 has been considered. In view of such, a newly discover prior art has prompted this office action is being made new-non final and the arguments are moot.

***Allowable Subject Matter***

5. Claims 4-5, 7-8 and 11-12 are allowable because the prior art does not teach or suggest the recitation therein including a vest having an attachment device with a angled spring plate which is removable from a bore of a locking portion attached to the vest.

6. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tejash Patel whose telephone number is (571) 272-4993. The examiner's supervisor can be reached at (571) 272-4996. The fax phone number for this group is (571) 273-8300.

October 20, 2010

/Tejash Patel/

Primary Examiner